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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Darla Padgett, et al., NO. C 04-03946 JW
Plaintiffs,
v.
Brian Loventhal, et al.,
Defendants.

**ORDER ADOPTING DISCOVERY
ORDER NUMBER SEVEN**

On June 21, 2007, the Special Master issued Recommended Discovery Order Number Seven. (See Docket Item No. 344.) Defendants filed objections on July 2, 2007. (Docket Item No. 344.)

Pursuant to a prior order of the Court, various computers in the custody of former Defendant City of Monte Sereno were imaged by Plaintiffs' computer expert, Scott Cooper, on May 4-6, 2007. Defendants' motion before the Special Master requested copies of all files imaged by Plaintiffs, and a directory listing of the same. The Special Master ordered that Defendants could receive a directory of the imaged files provided they bear the costs of its creation. The Master denied the request for complete copies of "all the imaged file sets" on the following grounds: (1) the imaged data is not currently in human readable form; (2) Defendants have had access to their own data throughout the pendency of the case and have failed to preserve it; (3) Defendants declined to receive copies at the time the imaging was conducted, when provision of those copies would have been considerably less expensive; and (4) Defendants failed to establish that such copies were necessary in order to respond to Plaintiffs' pending motion for terminating sanctions.

1 Defendants object to the Special Master's Order on the grounds that: (1) the Special Master
2 erroneously accepted Plaintiffs' estimated cost for creating a file directory; and (2) copies of the
3 imaged files are necessary to effectively respond to Plaintiffs' motion for terminating sanctions. The
4 Court finds that the Special Master's findings on both points were not clearly erroneous.

5 Defendants make various additional objections that are not addressed to Discovery Order
6 Number Seven and are therefore not considered.

7 Defendants' objections are OVERRULED. Recommended Discovery Order Number Seven
8 is ADOPTED as an Order of the Court without modification.

9
10 Dated: July 6, 2007


11 JAMES WARE
12 United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Darla Kaye Padgett Actiontkr@aol.com
3 Joseph C. Howard jhoward@hrmrlaw.com

4 **Dated: July 6, 2007**

5 **Richard W. Wiking, Clerk**

6 **By: /s/JW Chambers**
7 **Elizabeth Garcia**
8 **Courtroom Deputy**